

Notice of Allowability

Application No.

09/309,128

Examiner

John R. Hardee

Applicant(s)

FRANKENBACH ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the attached examiner's amendment.
2. ☒ The allowed claim(s) is/are 31,39 and 43.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

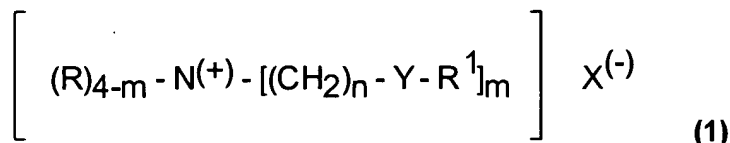
Authorization for this examiner's amendment was given in a telephone interview with Mr. David Upite on July 19, 2005.

The application has been amended as follows:

31. (Currently Amended) **A clear** [Clear,] or translucent liquid fabric softener composition comprising:

A. from about 2% to about 80% by weight of the composition of a fabric softener, **wherein the fabric softener is chosen from:**

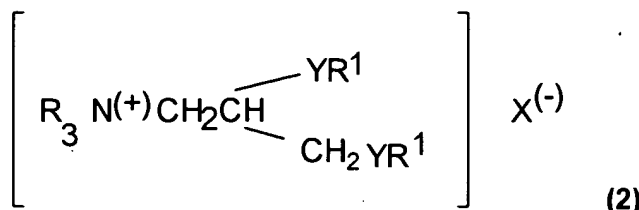
(A) a compound having the formula:



wherein each R substituent is hydrogen or short chain C₁-C₆ alkyl or hydroxyalkyl group, benzyl, or mixtures thereof; each m is 2 or 3; each n is from 1 to about 4; each Y is -O-(O)C-, -C(O)-O-, -NR-C(O)-, or -C(O)-NR-; each R¹ is a hydrocarbyl, or substituted hydrocarbyl, group, the sum of carbons in each R¹, plus one when Y is -O-(O)C-, being C₁₂-C₂₂; the average Iodine Value of the parent fatty acid of the R¹ group being from about 40 to about 140; and wherein the counterion, X⁻ is any softener-compatible anion;

(B) a compound having the formula:

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wherein each Y, R, R¹, and X⁽⁻⁾ have the same meanings as before; and

(C) mixtures thereof;

B. a principal solvent comprising TMPD present at a level of from about 1% to about 40% by weight of the composition;

C. from about 0.5 % to about 10% by weight of the composition of an electrolyte;

D. from about 0.1% to about 15% by weight of the composition of a phase stabilizer, wherein the phase stabilizer is nonionic surfactant derived from an alkyl aryl carboxylic acid compound, wherein said compound has from about 8 to about 18 carbon atoms in the alkyl or alkenyl chain and contains from about 5 to about 15 of said ethylene oxide moieties to provide an HLB of from about 10 to about 18 ~~selected from nonionic surfactants derived from saturated and/or unsaturated primary, secondary, and/or branched, amine, amide, amine-oxide fatty alcohol, fatty acid, alkyl phenol, and/or alkyl aryl carboxylic acid compounds having from about 6 to about 22 carbon atoms in a hydrophobic chain, wherein at least one active hydrogen of said compounds is ethoxylated with ≤ 50 ethylene oxide moieties to provide an HLB of from about 8 to about 20; and mixtures thereof.~~

Claims 32 - 38 (Canceled).

39. (Currently Amended) The composition of Claim 31, [38,] wherein said compound contains from about 8 to about 12 of said ethylene oxide moieties to provide an HLB of from about 11 to about 15.

Claims 40 – 42 (Canceled).

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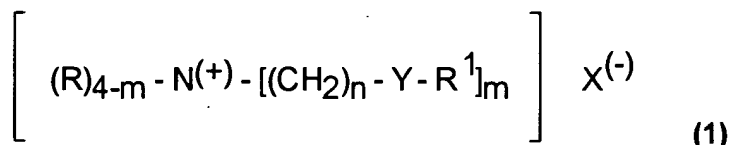
43. (Previous presented)

A composition comprising: The composition of Claim 42

wherein:

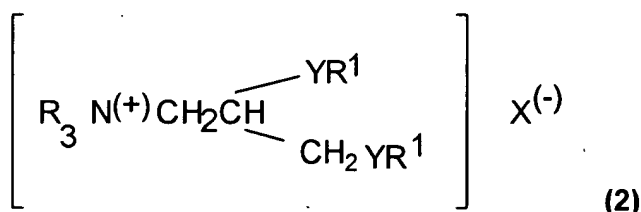
(A) there is from about 28% to about 35% by weight of the composition of a fabric softener, wherein the fabric softener is chosen from:

(a) a compound having the formula:



wherein each R substituent is hydrogen or short chain C₁-C₆ alkyl or hydroxyalkyl group, benzyl, or mixtures thereof; each m is 2 or 3; each n is from 1 to about 4; each Y is -O-(O)C-, -C(O)-O-, -NR-C(O)-, or -C(O)-NR-; each R¹ is a hydrocarbyl, or substituted hydrocarbyl, group, the sum of carbons in each R¹, plus one when Y is -O-(O)C-, being C₁₂-C₂₂; the average Iodine Value of the parent fatty acid of the R¹ group being from about 40 to about 140; and wherein the counterion, X⁻ is any softener-compatible anion;

(b) a compound having the formula:



wherein each Y, R, R¹, and X⁽⁻⁾ have the same meanings as before; and

(c) mixtures thereof;

~~which is a diester quaternary ammonium fabric softener derived by reacting fatty acyl source with triethanolamine and quaternizing the reaction product;~~

~~(B) there is from about 4% to about 6% of TMPD;~~

~~(C) there is from about 1.75 % to about 2.5% by weight of the composition of electrolyte which is either MgCl₂ or mixtures of MgCl₂ and CaCl₂; and~~

~~(D) there is from about 5% to about 6% by weight of the composition of a nonionic surfactant derived from saturated primary and/or branched fatty alcohols having from about 9 to about 11 carbon atoms in a hydrophobic chain ethoxylated with from an average of about 7 to~~

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about 9 ethylene oxide moieties and from about 0.5% to about 1% of a second nonionic surfactant which is a block copolymer comprising of ethylene oxide and propylene oxide.

Allowable Subject Matter

2. Claims 31, 39 and 43 are allowed.

3. The following is an examiner's statement of reasons for allowance: The claims as presently amended incorporate subject matter which was indicated allowable in the previous office action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Hardee", with a stylized, cursive script.

John R. Hardee
Primary Examiner
July 19, 2005